

Memorandum

To: DISTRICT DIRECTORS
DEPUTY DISTRICT DIRECTORS, Construction
DEPUTY DISTRICT DIRECTORS, Local Assistance
DISTRICT LOCAL ASSISTANCE ENGINEERS

Date: April 19, 2002

File: Division of Construction
CPD 02-06

From: DEPARTMENT OF TRANSPORTATION
DIVISION OF CONSTRUCTION - MS 44

Subject: Construction Oversight of Projects Funded by Others

The purpose of this memorandum is to clarify and emphasize the Department of Transportation's (Department) role in overseeing local public agencies, private sponsors and their consultants performing the contract administration and construction inspection of projects on the state highway system. The Department is not relieved of its oversight responsibility by authorizing performance of the work to a local agency or any other entity. The Department shall provide sufficient oversight to assure that the contracts are administered in accordance with the Construction Manual and the Local Assistance Procedures Manual (for local federal aid projects) and that the work is completed in conformance with approved plans and specifications.

For projects with federal aid, Section 635.105(b) of Title 23 of the Code of Federal Regulations (CFR) requires the Department to provide a full-time employed State Engineer to be in responsible charge of the project. Furthermore, Section 16.3, "Project Supervision and Inspection", of the Department's Local Assistance Procedures Manual, states that Federal Highway Administration (FHWA) assigns or delegates the responsibility of contract administration and construction inspection to the Department.

Section 1.11 (b) of Title 23 of the CFR allows the Department to utilize, under its supervision, the services of local agencies that are well-qualified and suitably equipped to perform surveys, prepare plans, specifications and estimates, and to administer the construction of any project. This delegation is made through master agreements, program supplements and cooperative agreements between the Department and local agencies. The local agency may contract with a consultant for the contract administration and construction inspection. For projects requiring full oversight by FHWA (non-exempt projects), the final decision regarding delegating the contract administration and construction inspection to a local agency or to contract with a consultant will be made by FHWA.

Delegation of the administration of the project to others does not relieve the Department of its responsibility to oversee the contract administration and construction inspection of the project.

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As described in Section 9-104, "Projects Funded by Others", of the Construction Manual, this oversight includes providing general policy and procedural direction, including:

- Evaluating the local agency's or private sponsor's contract administration and construction inspection capabilities or consultant selection.
- Performing periodic on-site field reviews and consultations.
- Reviewing and providing written concurrence of change orders that modify the plans or specifications or impact public safety and convenience.
- Reviewing contract progress pay schedules without assuming responsibility for the accuracy of itemizations on progress pay schedules.

For local federal aid projects, the deputy district director, construction and the district local assistance engineer shall coordinate their activities and responsibilities regarding oversight.

Please ensure the established regulations, policies and procedures related to projects administered by others are followed. Failure to comply on projects that include federal aid could result in the loss of federal funds due to FHWA non-participation, loss of credibility to the Department and even reduced delegation authority from FHWA to the Department.

Should you have any questions or require assistance, please call Scott Jarvis, Chief, Office of Contract Management, at (916) 651-6284 or CALNET at 8-461-6284.



ROBERT PIEPLOW

Chief

Division of Construction

c: JDietz, FHWA - CA
BFelker
TAbbott; KPokrajac
SJarvis; ADaouk